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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,456	02/12/2004	James M. Cullen	82126	2299
23685 7590 05/07/2008 KRIEGSMAN & KRIEGSMAN 30 TURNPIKE ROAD, SUITE 9 SOUTHBOROUGH, MA 01772				
EXAMINER				
LIEU, JULIE BICHNGOC				
ART UNIT		PAPER NUMBER		
2612				
MAIL DATE		DELIVERY MODE		
05/07/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/777,456

**Applicant(s)**

CULLEN ET AL.

**Examiner**

Julie Lieu

**Art Unit**

2612

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 11-28 and 34-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-28 and 34-54 is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

**DETAILED ACTION**

1. This Office action is in response to Applicant's amendment filed February 13, 2008. Claims 1 and 44 have been amended. Claims 10, 29-33 have been canceled.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 102***

3. Claims 1-3, 7, and are again rejected under 35 U.S.C. 102(e) as being anticipated by Kerr et al. (US Patent No. 2004/0062016).

Claim 1:

Kerr et al. (Kerr) discloses a tag comprising:

- a. an inlay 10, the inlay comprising:
  - i. an antenna 30,40, and
  - ii. a wireless communication device 60 coupled to the antenna; and
- b. a plastic extrudate (fig. 12), the plastic extrudate being a unitary member with the antenna 30,40 and the wireless communication device 60 being embedded within the plastic extrudate.

See fig. 12 and fig. 13

Claim 2:

Wireless communication device 60 is a radio frequency (RF) communication device.

Claim 3:

Inlay 10 further comprises a carrier sheet 20 on which the antenna is disposed. Fig. 13.

Claim 7:

There is a mounting adhesive coupled to the plastic extrudate. Para. [0047].

Claim 8:

The wireless communication device 60 is in the form of an integrated circuit (IC) chip which is conductively bonded to the antenna.

***Claim Rejections - 35 USC § 103***

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kerr et al. (US Patent No. 2004/0062016).

Claim 4:

It is not clear whether antenna 30,40 is printed onto the carrier sheet 20. however, it would have been obvious to one skilled in the art to use printed circuit technology to print antenna onto the carrier sheet because it is conventional.

5. Claims 5-6, and 9 are again rejected under 35 U.S.C. 103(a) as being unpatentable over Kerr et al. (US Patent No. 2004/0062016) in view of Grabau et al. (US Patent No. 6,451,154).

Claims 5-6:

Kerr fails to disclose a metallic reflector coupled to the plastic extrudate. However, the use of metallic backing antennas is old and well known in the art. Therefore, one skilled in the art would have readily recognized the use of a reflector in the device disclosed in Grabau because it would enhance the operating range of the transponder. It would also been obvious to one skilled in the art to laminate the metallic reflector, by using an adhesive, onto the exterior surface of the plastic extrudate because it is at the closest location of the antenna and adhesive is the best way of attaching it to the surface of the plastic extrudate.

Claim 9:

Antenna in Kerr is not a dipole antenna. However, the use of dipole antenna is old and conventional in the art as taught in Grabau. Therefore, one skilled in the art would have readily recognized the desirability of using dipole antenna in the system of Kerr since it is conventional. It is not clearly stated in the Grabau reference that the antenna is bilaterally symmetrical. Nevertheless, it would have been obvious to one skilled in the art to use a bilaterally symmetrical dipole antenna in Grabau's device because it is old and conventional in the art.

*Applicant's arguments*

6. Regarding claim 1, the Applicants argued that Kerr et al. fails to disclose a unitary member but it discloses two separate pieces.

*Response to Applicant's arguments*

7. Applicants' arguments have been fully considered but they are not persuasive.

The examiner submits that "unitary", according to Webster's Revised Unabridged Dictionary, is defined as "of the nature of a unit; not divided; united". Thus, the layers in Kerr's though are formed of two separate pieces, they are joined (or united) together as one unit or unitary member. Therefore, the Applicant's argument is not persuasive, and for this reason the rejection is maintained.

*Allowable Subject Matter*

8. Claims 1-28, 34-54 are allowed.

*Conclusion*

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie Lieu whose telephone number is 571-272-2978. The examiner can normally be reached on MaxiFlex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu can be reached on 571-272-2964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Julie Lieu/  
Primary Examiner, Art Unit 2612

May 02, 08